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**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, NORTHERN DIVISION**

<b>EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,</b>  Plaintiff,  vs.  TEPANYAKI OF CLEARFIELD, L.L.C.,  Defendant.	Case No. 1:09-cv-43 TS  <b>FIRST AMENDED COMPLAINT</b>  <b>Jury Trial Demanded</b>  <b>Judge Ted Stewart</b>
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**NATURE OF THE ACTION**

This is an action under Title VII of the Civil Rights Act of 1964 to correct unlawful employment practices on the basis of sex, female, and pregnancy, and to make

whole Alison Woodbury (“Ms. Woodbury”). Defendant Tepanyaki of Clearfield, L.L.C. (“Tepanyaki” or “Defendant”) terminated Ms. Woodbury because of her sex, female, based on the fact that she was pregnant. Ms. Woodbury was hired as a server for Tepanyaki. When Defendant found out Ms. Woodbury was pregnant, Defendant fired Ms. Woodbury because of her pregnancy.

### **JURISDICTION AND VENUE**

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to §§ 706(f)(1) and (3) and § 707 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3); §§ 2000e-6 and § 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of Utah.

### **PARTIES**

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by § 706(f)(1) of Title VII, 42 U.S.C. § 2000e-5(f)(1).

4. At all relevant times to this action, Defendant Tepanyaki has continuously been a Utah corporation doing business in the State of Utah and the City of Clearfield, and has continuously had at least 15 employees.

5. At all relevant times to this action, Defendant has continuously been an employer engaged in an industry affecting commerce within the meaning of §§ 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

### **STATEMENT OF CLAIMS**

6. More than thirty days prior to the institution of this lawsuit, Ms. Woodbury filed a charge with the Commission alleging violations of Title VII by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least February, 2006, Defendant has engaged in unlawful employment practices at its Clearfield, Utah restaurant by terminating Ms. Woodbury because of her sex, female and pregnancy, in violation of § 703(a) of Title VII, 42 U.S.C. § 2000e-2(a). Specifically, Ms. Woodbury was hired by Tepanyaki in approximately February, 2006. During Ms. Woodbury's initial training, Defendant discovered that Ms. Woodbury was pregnant and immediately terminated her employment.

8. The effect of the practices complained of have been to deprive Ms. Woodbury of equal employment opportunities and otherwise adversely affect her status as an employee because of sex, female and pregnancy.

9. The unlawful employment practices complained of in paragraphs 7-8 above were intentional.

10. The unlawful employment practices complained of in paragraphs 7-8 above were done with malice or with reckless indifference to the federally protected rights of Ms. Woodbury.

**PRAYER FOR RELIEF**

WHEREFORE, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in any employment practice that discriminates on the basis of sex and pregnancy.

B. Order Defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities for pregnant women, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant to make whole Ms. Woodbury by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to reinstatement of Ms. Woodbury.

D. Order Defendant to make whole Ms. Woodbury by providing compensation for non-pecuniary losses, including emotional pain, suffering, inconvenience, loss of enjoyment of life and humiliation, in amounts to be determined at trial.

E. Order Defendant to pay Ms. Woodbury punitive damages for its malicious and/or reckless conduct, in amounts to be determined at trial.

F. Grant such further relief as the Court deems necessary and proper.

**JURY TRIAL DEMAND**

The Commission requests a jury trial on all questions of fact raised by this Complaint.

RESPECTFULLY SUBMITTED this 3<sup>rd</sup> day of April, 2009.

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